

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

COMPLAINT UNDER CIVIL RIGHTS ACT 42 U.S.C. \ 1983

Action Number: 3:21cv784

Please fill out the complaint form completely. The Court needs the information requested in order to assure that your complaint is processed as quickly as possible and that all your claims are addressed. Please print\ write legibly or type.

1. PARTIES

A. Plaintiff:

<https://nfcuccloud.custhelp.com/>

1. (a) MITCHELL ALLEN, III (b) Public Citizen
(Name) Inmate Number.

(c) 403 North Avenue, #B
Richmond Virginia, 23222

Plaintiffs MUST keep the Clerk of Court notified of any change of address due to transfer or release. If the plaintiff fails to keep the clerk informed of such changes, this action may be dismissed.

Plaintiff is advised that only persons acting under the color of state law are proper defendants under Section 1983. The Commonwealth of Virginia is immune under the Eleventh Amendment. Private parties such as attorneys and other inmates may not be sued under Section 1983. In addition, liability under Section 1983 requires personal action by the defendant that caused you harm. Normally, the Director of the Department of Corrections, wardens, and sheriffs are not liable Under Section 1983 when a claim against them rests solely on the facts that they supervise persons who may have violated your rights. In addition, prisons, jails, and departments within an institution are not persons under Section 1983

B. Defendant(s):

6. (a) Sergeant Hewes (b) Henrico County Police
Name (Title/Job Description)
(e) Henrico County Police Department
Address
7721 E. Parham Road
Henrico Virginia 23294

If there are additional defendants, please list them on a separate sheet of paper.
Provide all identifying information for each defendant named.

Plaintiff MUST provide a physical address for defendant(s) in order for the Court to serve the complaint. If the plaintiff does not provide a physical address for a defendant, that person may be dismissed as a party to this action.

II. PREVIOUS LAWSUITS

- A.** Have you ever begun other lawsuits in any state or federal court relating to Your imprisonment? YES [] NO [x]
- B.** If your answer to "A" is Yes: You must describe any lawsuit, whether Currently pending or closed, in the space below. If there is more than One lawsuit, you must describe each lawsuit on another sheet of Paper, using the same outline, and attach hereto.

1. Parties to previous lawsuit:

Plaintiff(s) None

Defendant(s) None

1. (a)Colonel Eric D. English (b) Chief of Police
Name Title\Job Description

Henrico County Police Department
7721 E. Parham Road

Henrico Virginia 23294
2. (a)Officer Earlenbaugh, Henrico Police (b) Henrico County Police
Name (Title\Job Description)

(c)Henrico County Police Department
Address
7721 E. Parham Road
Henrico Virginia 23294
3. (a)Officer Hughes (b) Henrico County Police
Name (Title/Job Description)
(c)Henrico County Police Department
Address
7721 E. Parham Road
Henrico virginia 23294
4. (a)Officer Robinson(b)Henrico County Police
Name (Titler/Job Description)
(c)Henrico County Police Department
Address
7721 E. Parham Road
Henrico Virginia23294
5. (a) Officer Moyer(b)Henrico County Police
Name (Title/Job Description)
(e)Henrico County Police Department
Address
7721 E.Parham Road
Henrico Virginia 23294

2. Court (if federal court, name the district; if state court, name the county):

3. Date lawsuit filed: None

4. Docket number: None

5. Name of Judge to whom case was assigned: None

6. Disposition (Was case dismissed? Appealed? Is it still Pending? What relief was granted, if any?): None

III. GRIEVANCE PROCEDURE

- A. at what institution did the events concerning your current Complaint take place: None

- B. Does the institution listed in "A" have a grievance procedure? YES [] NO [X]

- C. If your answer to "B" is YES:

1. Did you file a grievance based on this complaint?

YES []

NO [X]

2. If so, where and when: _____

3. What was the result? There was no result for the
For the mere fact the incident involving Plaintiff
Occurred on North Avenue the city of Richmond
And not an Institution.

4. Did you Appeal? Yes [] No [x]

5. Result of Appeal: none

D. If there was no prison grievance procedure in the Institution, did you complain to the prison authorities? Yes []
No [x]

If your answer is Yes, what steps did you take? None

E. If your answer is No, explain why you did not submit your Complaint to prison authorities:
On December 19, 2019, Officers with the Henrico
County Police Department conducted a strip search
And body cavity search violating Plaintiff Fourth
Amendment Rights. Therefore this is not a prison
This is not a prison grievance issue.

IV. STATEMENT OF THE CLAIM

State here the facts of your case. Describe how each defendant is involved and how you were harmed by their action. Also include the dates, places of events, and constitutional amendment you allege were violated.

If you intend to allege several related claims, number And set forth each claim in a separate paragraph. Attach Additional sheets if necessary.

search that was unlawful under the Fourth Amendment. It is not a new rule of law that searches involving public exposure, touching, and penetration of an arrestee's Genitals are subject to limitations under the Fourth Amendment" and the defendant Colonel Eric D. English, Chief of Police stood by and done nothing to correct the wrongful Negligence actions lead by his officer who maliciously and Sadistically afflict pain and suffering to the plaintiff mentally and physically.(See Exhibit-1)

The strip search conducted in this instance was clearly violative of Plaintiff's Fourth Amendment rights to be free from unreasonable search and seizure. Further, defendant's Earlenbaugh and all those who acted in concern participation actions were in direct contradiction of clearly Establish law.

Wherefore, Plaintiff currently has valid federal claims for excessive force, unlawful search and seizure, and state law claims for intentional infliction of emotional distress. Plaintiff is suing the defendant(s) in their official and Individual capacity.

V. RELIEF

I understand that in a Section 1983 action the Court cannot Change my sentence, release me from custody or restore good Time. I understand I should file a petition for a writ of habeas Corpus if I desire this type of relief. MA(please initial)

The plaintiff wants the Court to:(check those remedies You seek)

xAward money damages in the amount of\$One Hundred Million.

VI. PLACES OF INCARCERATION

On December 19, 2019, Officers with the Henrico County Police Department and their Directed Action Response Team (DART), were conducting an enforcement operating at the intersection of Meadowbridge Road and Laburnum Avenue. At approximately 6:50 p.m. the defendant Officer Hughes conducted a traffic stop, during which time he detected an odor of marijuana emanating from the vehicle whereupon he requested support from additional units. The car was occupied by two individual Mitchell Allen was a front seat passenger. IN response to the call for assistance, Officer Earlenbaugh Directed his attention to the passenger.

Officer Robinson then arrived on scene to assist Moyer and Earlenbaugh in restraining Allen. Earlenbaugh then begins searching Allen's buttocks, which causes Allen to physically protest to Sgt. Hewes then arrives and tells Earlenbaugh to Do what he has to do. Allen protests to Sgt. Hewes, telling him that they can't go into his ass and pleads with Sgt. Hewes for help due to the force being exerted on his handcuffed wrists causing a high level of pain. At this Point, you hear an officer state, alright, "let's go to the ground," and Allen is tackled to the ground in the grassy medium of Laburnum Avenue. Laburnum Avenue consists of two lanes of travel and a turning lane on each side in this location. Homes are located on each side of the street and numerous cars can be seen driving past the BWC. Despite this, the defendant earlenbaugh pulls Mr. Allen's Pants down to his knees, exposing his buttocks and scrotum. Prior before the defendant Officer Moyer performs a bent Wrist maneuver on Plaintiff and places him on the trunk of The car.

Plaintiff was being abuse before the eye sight of the public While vehicles continued to drive by while a search of Plaintiff's genital region and butt cheeks were conducted. Defendant Officer Earlenbaugh can then be heard stating, "we got the majority" of it and they stand Plaintiff back on his Feet.

These five officers conducted a strip search and body cavity

NONE

VII. CONSENT TO TRIAL BY A MAGISTRATE JUDGE:

The parties are advised of their right, pursuant to 28 U.S.C. 1636(C), to have a U.S. Magistrate Judge preside over a trial, with appeal to the U.S. Court of Appeals for the Fourth Circuit.

VIII. SIGNATURE

If there is more than one plaintiff, each plaintiff must Sign for himself.

Sign this 14 day of Dec, 2021.
Plaintiff Mitchell Allen